IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

DATE OF DECISION: 7.9.2006

Manju and others

...Appellants

versus

Girdhari Lal and others

... Respondents

CORAM:- Hon'ble Mr. Justice Uma Nath Singh.
Hon'ble Mr.Justice Mahesh Grover.

Present: Mr.Ashwani Arora, Advocate,
for the appellants.

UMA NATH SINGH, J. (ORAL)

In this FAO against an award dated 19.7.2006 passed by learned Presiding Officer, Motor Accident Claims Tribunal, Chandigarh, in MACT No.137 of 23.12.2002, learned counsel submitted that though the appellants have earned the award but since the Insurance Company has been exonerated, it would be difficult to recover the amount from the owner of the offending vehicle.

The owner of the offending vehicle has not come in appeal before us, nor is it a plea of learned counsel that execution has failed due to paucity of funds. That apart, learned counsel has no other submission. The Tribunal has considered the evidence on record and found that the deceased was a gratuitous passenger and as such, the liability could not have been fasten on the Insurance Company. We are not inclined to accept the plea in this claimants appeal, which otherwiserather should have come from the owner of the vehicle.

Accordingly, the FAO, being devoid of merits, is dismissed in limine.

However, in view of the apprehension of learned counsel that payment of the claim amount would be difficult, we direct that the offending vehicle (being Tata 407-HNE-4668) shall not be sold/alienated till the compensation amount is satisfied.

(UMA NATH SINGH)
JUDGE

September 7, 2006 **(MAHESH GROVER)**
pk **JUDGE**